

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THE FEDERAL REPUBLIC OF NIGERIA;
ABUBAKAR MALAMI, THE ATTORNEY
GENERAL OF THE FEDERAL REPUBLIC OF
NIGERIA

Applicants

VR ADVISORY SERVICES, LTD.; VR ADVISORY
SERVICES (USA) LLC; VR CAPITAL GROUP,
LTD.; VR GLOBAL ONSHORE FUND, L.P.; VR
ARGENTINA RECOVERY ONSHORE FUND II,
L.P.; RICHARD DIETZ; JEFFREY JOHNSON; and
ASHOK RAJU

Respondents.

Case No: 1:20-mc-209

***EX PARTE APPLICATION FOR AN
ORDER PURSUANT TO 28 U.S.C.
§1782 TO CONDUCT DISCOVERY
FOR USE IN FOREIGN
PROCEEDINGS***

The Federal Republic of Nigeria and the Honorable Abubakar Malami, the Attorney General of the Federation and Minister of Justice of Nigeria (collectively the “Applicants”), by their undersigned counsel, Meister Seelig & Fein LLP, respectfully move this Court for an order pursuant to 28 U.S.C. Section 1782 (“Section 1782”) permitting Applicants to issue subpoenas pursuant to Federal Rules of Civil Procedure 26 and 45 directing VR Advisory Services, Ltd. (“VR Advisory”), VR Advisory Services (USA) LLC (“VR Advisory USA”), VR Capital Group, Ltd. (“VR Capital”), VR Global Onshore Fund, L.P. (“VR Onshore”), VR Argentina Recovery Onshore Fund II, L.P. (“VR Argentina”), and directors and officers Richard Dietz, Jeffrey Johnson, and Ashok Raju (collectively “VR Respondents”) to produce documents and provide deposition testimony for use by Applicants in foreign criminal investigations and criminal judicial proceedings that are pending in the Federal Republic of Nigeria (the “Nigerian Proceedings”).

As set forth in the accompanying memorandum of law, the Application meets all of the statutory requirements necessary to obtain discovery under Section 1782, and the discretionary factors weigh in favor of granting the Application and the discovery Applicants seek. In addition, as set forth in the accompanying Declaration of Alexander D. Pencu, Esq. ("Pencu Declaration") VR Respondents can be found in this district. Applicants seek the discovery for use in the Nigerian Proceedings, which foreign criminal investigations and proceedings constitute foreign proceedings within the meaning of Section 1782. VR Respondents are not a party to any of the Nigeria Proceedings. Applicants are not attempting to circumvent any requirements of the Nigerian judicial system by making this Application. Also, Nigerian administrative agencies and courts are receptive to this form of discovery, and the requested discovery is not unduly burdensome or intrusive. In further support of this application, Applicants rely on their accompanying memorandum of law, the Declaration of the Honorable Abubakar Malami with its accompanying exhibits, and the Pencu Declaration with its accompanying exhibits. A proposed Order is attached hereto.

WHEREFORE, the Federal Republic of Nigeria and Attorney General Malami respectfully request that this Court enter an order:

1. Granting the Application for discovery from the VR Respondents pursuant to Section 1782;
2. Authorizing Applicants to take discovery relating to the issues identified in its application from the VR Respondents, in accordance with the Federal Rules of Civil Procedure and the Rules of this Court, including by serving on the VR Respondents a subpoena for deposition testimony and the production of the documents listed in Exhibits 1 through 8 to the Pencu Declaration;

3. Directing VR Respondents to comply with the subpoenas in accordance with the Federal Rules of Civil Procedure and the Rules of this Court;
4. Appointing the undersigned to issue, sign and serve the subpoenas;
5. Providing that this Court shall retain such jurisdiction as is necessary to effectuate the terms of such subpoenas;
6. And providing such other and further relief to the Applicants as the Court deems just and proper.

Dated: May 12, 2020
New York, New York

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